

OGC 77-1331
1 March 1977

MEMORANDUM FOR : Admiral Turner

FROM : Anthony A. Lapham
General Counsel

SUBJECT : Date of Taking Office as DCI - Legal Aspects

1. You have inquired as to the legal aspects of your being sworn in and assuming the duties of the Director of Central Intelligence as soon as possible, specifically on 4 March, as opposed to having those actions take place on 9 March. The particular problem is that Mr. Knoche is to be away on leave from 2 March through 8 March.

2. The basic point is that prior to your actually being sworn in and assuming the duties of the office of the Director, you have no legal authority to exercise any of those duties and functions and in law you could not instruct Agency personnel or participate as the Director in inter-agency matters. As a practical matter, of course, your instructions can be given and obviously will be complied with.

OGC

FOIAB5

3. There could be a period in which you have not taken office and Mr. Knoche is away and is not in a position to exercise the functions of either Acting Director or Deputy Director. I believe existing delegations would permit the work of the Agency and the Community to continue and would permit current officials to exercise necessary authorities. In July 1976, Director Bush delegated to the Deputy Director of Central Intelligence Agency (Mr. Knoche) and the Deputy to the Director of Central Intelligence (Admiral Murphy), respectively, all the authorities of the Director in the two relevant areas; that is, the authorities concerning the Agency were delegated to Mr. Knoche and the authorities concerning the

OGC Has Reviewed

Community to Admiral Murphy. This delegation continues in force notwithstanding that Mr. Bush is no longer Director. A copy is attached at Tab A.

4. Acting Director Knoche on 26 January issued a paper entitled "Contingency Delegations of Authorities" (copy at Tab B) instructing Admiral Murphy, during Mr. Knoche's temporary absence from duty, to continue to exercise the authorities delegated to Admiral Murphy by the Bush paper of 22 July and instructing the Deputy Director for Administration to exercise the duties delegated in July by Mr. Bush to "the Deputy Director of Central Intelligence." Mr. Knoche's paper also specified that his paper was intended not only to provide for the exercise of authority during that coming weekend, when Mr. Knoche was to be away, but that it would "govern until my return, as in all similar cases in the future, without separate issuances over my signature to cover each case." Thus, I believe the existing legal delegations are satisfactory and it is not necessary for you to be in office during Mr. Knoche's absence in order for the functions and business of the Agency and the Community to be performed.

/s/ Anthony A. Lapham

Anthony A. Lapham

Attachments

(Optional)

Executive Registry

Memo re Date of Taking Office as DCI - Legal Aspects

77-6471

OM

AALapham
General Counsel

EXTENSION

NO

DATE

1 March 1977

STAT

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1

ADCI 7D6011

Hank,

2

The attached to Admiral Turner discusses the legal considerations relevant to the selection of a particular date for the Admiral to take office. Basically, it concerns the exercising of authorities in your absence. As you will see, I believe no additional action is necessary.

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Since writing the above, Ben Evans has advised of your desire that a new paper from you be issued to deal with the situation of your absence, including any portion of that period in which Admiral Turner may have become Director. For this purpose Ben is preparing, with my concurrence, a memo for your signature which duplicates the language of your 26 January memo with an additional sentence substantially as follows: "If Admiral Turner takes office as the Director during my absence, these delegations continue in force subject, of course, to any changes he may direct."

/s/ Anthony A. Lapham

Anthony A. Lapham

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Executive Secretary
7D6019

For passage to Admiral Turner

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FORM
3-62

610

USE PREVIOUS
EDITIONS

SECRET



CONFIDENTIAL

INTERNAL
USE ONLY

UNCLASSIFIED

UNCLASSIFIED CONFIDENTIAL SECRET

OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	Exec. Registry		
2	7E12		
3			
4			
5			
6			

<input type="checkbox"/>	ACTION	<input type="checkbox"/>	DIRECT REPLY	<input type="checkbox"/>	PREPARE REPLY
<input type="checkbox"/>	APPROVAL	<input type="checkbox"/>	DISPATCH	<input type="checkbox"/>	RECOMMENDATION
<input type="checkbox"/>	COMMENT	<input type="checkbox"/>	FILE	<input type="checkbox"/>	RETURN
<input type="checkbox"/>	CONCURRENCE	<input type="checkbox"/>	INFORMATION	<input type="checkbox"/>	SIGNATURE

Remarks:

(Handwritten: EXECUTIVE SECRETARY OF THE President/DCI)
(Handwritten: Turner/EOB)

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FROM: NAME, ADDRESS AND PHONE NO.		DATE
OGC		3/1/77